

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 326**

Introduced by Landis, 46

Read first time January 12, 1999

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-322, 44-516,  
2 44-522, 44-523, 44-6105, 44-6106, 44-6108, 44-6116, and  
3 60-304, Reissue Revised Statutes of Nebraska, and section  
4 81-1021, Revised Statutes Supplement, 1998; to change  
5 filing provisions, cancellation requirements,  
6 demutualization procedures, and motor vehicle license  
7 plate requirements; to require a statement of allowable  
8 benefits; to harmonize provisions; to provide a duty for  
9 the Revisor of Statutes; and to repeal the original  
10 sections.  
11 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 44-322, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   44-322.   (1)(a)(i) Every insurance company holding a  
4 certificate of authority to transact the business of insurance in  
5 this state shall file with the director on or before March 1 of  
6 each year an annual financial statement for the year ending  
7 December 31 immediately preceding on forms prescribed by the  
8 director which conform substantially to the forms adopted by the  
9 National Association of Insurance Commissioners. ~~Unless~~

10                   (ii)(A) Before January 1, 2001, unless the director  
11 provides otherwise, the financial statement shall be prepared in  
12 accordance with the annual statement instructions and the  
13 Accounting Practices and Procedures Manual adopted by the National  
14 Association of Insurance Commissioners and shall include the  
15 salaries and compensation of the officers and any other information  
16 required by the director.

17                   (B) On and after January 1, 2001, the financial statement  
18 shall be prepared in accordance with annual statement instructions  
19 and accounting practices and procedures manuals as prescribed by  
20 the director which conform substantially to the annual statement  
21 instructions and the Accounting Practices and Procedures Manuals  
22 adopted by the National Association of Insurance Commissioners and  
23 shall include the salaries and compensation of the officers and any  
24 other information required by the director.

25                   (iii) Every insurance company subject to this section  
26 shall make such other periodic financial filings as the director  
27 may reasonably require.

28                   ~~The director shall suspend or shall not issue or renew~~

1 the certificate of authority of an insurance company until it has  
2 complied with the requirements of this subsection and any rules and  
3 regulations or orders issued thereunder, except that for good and  
4 sufficient cause shown the director may grant a reasonable  
5 extension of time within which the financial statement may be  
6 filed, in no event to exceed thirty days. In addition to or in  
7 lieu of suspension or refusal to issue or renew the certificate of  
8 authority, the director may order an insurance company which fails  
9 to comply with the requirements of this subsection and any rules  
10 and regulations or orders issued thereunder to pay an  
11 administrative penalty of five hundred dollars and an additional  
12 penalty of not to exceed five hundred dollars for each day  
13 thereafter such failure continues and the company continues to  
14 transact any business of insurance.

15 (b)(i) Within three days after the failure of an  
16 insurance company to comply with the requirements of subdivision  
17 (1)(a) of this section, the director shall notify the insurance  
18 company of such failure.

19 (ii) Subject to subdivision (1)(b)(iii) of this section,  
20 if an insurance company fails to comply with the requirements of  
21 subdivision (1)(a) of this section and any rules and regulations  
22 adopted and promulgated under such subdivision and any orders  
23 issued under such subdivision, (A) such insurance company shall  
24 forfeit one hundred dollars for each day thereafter such failure  
25 continues and the insurance company continues to transact any  
26 business of insurance and (B) in addition to the forfeiture  
27 required under subdivision (1)(b)(ii)(A) of this section, the  
28 director may suspend or refuse to renew the certificate of

1 authority of the insurance company until it has complied with the  
2 requirements of subdivision (1)(a) of this section and any rules  
3 and regulations adopted and promulgated under such subdivision and  
4 any orders issued under such subdivision. All such forfeitures  
5 collected by the director shall be remitted to the State Treasurer  
6 for credit to the permanent school fund.

7       (iii) For good and sufficient cause shown, the director  
8 may grant a reasonable extension of time not to exceed thirty days  
9 within which the financial statement may be filed as required under  
10 subdivision (1)(a) of this section without the forfeiture required  
11 under subdivision (1)(b)(ii)(A) of this section and without any  
12 suspension or refusal to renew authorized under subdivision  
13 (1)(b)(ii)(B) of this section.

14       (2) Every insurance company holding a certificate of  
15 authority to transact the business of insurance in this state shall  
16 participate in the National Association of Insurance Commissioners  
17 Insurance Regulatory Information System, including the payment of  
18 all fees and charges of such system, except as exempted by the  
19 director. Each participating insurance company shall file with the  
20 National Association of Insurance Commissioners on or before March  
21 1 of each year a copy of its annual financial statement along with  
22 any additional filings required by the director for the immediately  
23 preceding year. The financial statement so filed shall be in the  
24 same format and scope as that required by subsection (1) of this  
25 section and shall include a signed jurat page and actuarial  
26 certification except as exempted by the director. Each  
27 participating insurance company shall file with the National  
28 Association of Insurance Commissioners any amendments and addendums

1 to the financial statement and annual and quarterly financial  
2 statement information in computer readable format as required by  
3 the Insurance Regulatory Information System.

4 Sec. 2. Section 44-516, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 44-516. (1) No notice of cancellation of a policy to  
7 which section 44-515 applies shall be effective unless mailed by  
8 registered or certified mail to the named insured at least thirty  
9 days prior to the effective date of cancellation, except that if ~~+~~  
10 ~~PROVIDED, that where~~ cancellation is for nonpayment of premium, at  
11 least ten days' notice of cancellation accompanied by the reason  
12 therefor shall be given. The requirements of this subsection shall  
13 apply to a cancellation initiated by a premium finance company for  
14 nonpayment of premium. Unless the reason accompanies or is  
15 included in the notice of cancellation, the notice of cancellation  
16 shall state or be accompanied by a statement that upon written  
17 request of the named insured, mailed or delivered to the insurer  
18 not less than twenty-five days prior to the effective date of  
19 cancellation, the insurer will specify the reason for such  
20 cancellation.

21 (2) The insurer shall, upon such written request of the  
22 named insured, mailed or delivered to the insurer not less than  
23 twenty-five days prior to the effective date of cancellation,  
24 specify in writing the reason for such cancellation. Such reason  
25 shall be mailed or delivered to the named insured within five days  
26 after receipt of such request.

27 (3) This section shall not apply to nonrenewal.

28 Sec. 3. Section 44-522, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           44-522.   (1) The Department of Insurance shall not  
3 approve any insurance policy filed for approval with the  
4 department, as required by the Property and Casualty Insurance Rate  
5 and Form Act, which insures against loss or damage to property or  
6 against legal liability from any cause unless such policy contains  
7 ~~an~~ appropriate ~~provision~~ provisions for cancellation thereof by  
8 either the insurer or the insured and for nonrenewal thereof by the  
9 insurer.

10           (2) On any policy or binder of property, marine, or  
11 liability insurance, as specified in section 44-201, the insurer  
12 shall give the insured sixty days' written notice prior to  
13 cancellation or nonrenewal of such policy or binder, except that  
14 the insurer may cancel upon ten days' written notice to the insured  
15 in the event of nonpayment of premium or if such policy or binder  
16 has a specified term of sixty days or less unless the policy or  
17 binder has previously been renewed. The requirements of this  
18 subsection shall apply to a cancellation initiated by a premium  
19 finance company for nonpayment of premium. The provisions of this  
20 subsection and subsection (4) of this section shall not apply to  
21 nonrenewal of a policy or binder which has a specified term of  
22 sixty days or less unless the policy or binder has previously been  
23 renewed. Such notice shall state the reason for cancellation or  
24 nonrenewal.

25           (3) Notwithstanding subsection (2) of this section, no  
26 policy of property, marine, or liability insurance, as specified in  
27 section 44-201, which has been in effect for more than sixty days  
28 shall be canceled by the insurer except for one of the following

1 reasons:

2 (a) Nonpayment of premium;

3 (b) The policy was obtained through a material  
4 misrepresentation;

5 (c) Any insured has submitted a fraudulent claim;

6 (d) Any insured has violated any of the terms and  
7 conditions of the policy;

8 (e) The risk originally accepted has substantially  
9 increased;

10 (f) Certification to the Director of Insurance of loss of  
11 reinsurance by the insurer which provided coverage to the insurer  
12 for all or a substantial part of the underlying risk insured; or

13 (g) The determination by the director that the  
14 continuation of the policy could place the insurer in violation of  
15 the insurance laws of this state.

16 (4) Notice of cancellation or nonrenewal shall be sent by  
17 registered, certified, or first-class mail to the insured's last  
18 mailing address known to the insurer. If sent by first-class mail,  
19 a United States Postal Service certificate of mailing shall be  
20 sufficient proof of receipt of notice on the third calendar day  
21 after the date of the certificate.

22 (5) The requirements of subsections (2), (3), and (4) of  
23 this section shall not apply to automobile insurance coverage,  
24 insurance coverage issued under the Nebraska Workers' Compensation  
25 Act, insurance coverage on growing crops, or insurance coverage  
26 which is for a specified season or event and which is not subject  
27 to renewal or replacement.

28 (6) All policy forms issued for delivery in Nebraska

1 shall conform to this section.

2           Sec. 4.     Section 44-523, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           44-523. (1)(a) Except as provided in subdivision (1)(b)  
5 of this section, a A notice of cancellation, given for reasons  
6 other than for nonpayment of premium, of a policy of automobile  
7 liability insurance issued or delivered in this state shall only be  
8 effective if mailed by registered or certified mail to the named  
9 insured at the address shown in the policy at least thirty days  
10 prior to the effective date of such cancellation.

11           (b) A notice of cancellation, initiated by a premium  
12 finance company, of a policy of automobile liability insurance  
13 issued or delivered in this state shall only be effective if mailed  
14 by registered or certified mail to the named insured at the address  
15 shown in the policy at least ten days prior to the effective date  
16 of such cancellation.

17           (2) This section shall not apply ~~(1)~~ (a) to any policy  
18 subject to sections 44-514 to 44-521, ~~(2)~~ (b) to any policy issued  
19 under an automobile assigned-risk plan or to any policy of  
20 insurance issued principally to cover personal or premises  
21 liability of an insured even though such insurance may also provide  
22 some incidental coverage for liability arising out of the  
23 ownership, maintenance, or use of a motor vehicle on the premises  
24 of the insured or on the ways adjoining such premises, and ~~(3)~~ (c)  
25 to any policy or coverage which has been in effect less than sixty  
26 days at the time notice of cancellation is mailed or delivered by  
27 the insurer unless it is a renewal policy.

28           (3) Any attempted cancellation in violation of the



1 provisions of this section shall be void.

2           Sec. 5.    (1) Any individual or group sickness and  
3 accident insurance policy or subscriber contract, any hospital,  
4 medical, or surgical expense-incurred policy, and any prepaid  
5 dental service plan that is issued for delivery, delivered, or  
6 renewed in this state, except policies that provide coverage for a  
7 specified disease or other limited benefit coverage and health  
8 maintenance organization contracts, that provides for payment of  
9 claims based upon a specific methodology including, but not limited  
10 to, usual and customary charges, reasonable and customary charges,  
11 maximum benefit allowance, or charges based upon the prevailing  
12 rate in the community, shall provide that, upon request, a  
13 policyholder, certificate holder, covered dependent, or authorized  
14 representative shall be provided a written statement that includes  
15 a good faith estimate of the dollar amount of the allowable benefit  
16 for a service or procedure if the request includes information  
17 regarding any service or procedure to be performed by a  
18 nonpreferred provider, including any service or procedure code  
19 number or diagnosis related group provided by the health care  
20 provider and the health care provider's estimated charge.

21           (2) A statement requested pursuant to this section shall  
22 be sent to the policyholder, certificate holder, covered dependent,  
23 or authorized representative within ten business days after receipt  
24 of the request from the policyholder, certificate holder, covered  
25 dependent, or authorized representative.

26           (3) The insurer or other entity that provides a statement  
27 pursuant to and in compliance with this section shall not be bound  
28 by a good faith estimate, except that a pattern of providing

1 estimates that vary significantly from the ultimate payment shall  
2 be an unfair claims settlement practice subject to the Unfair  
3 Insurance Claims Settlement Practices Act.

4           Sec. 6.   Section 44-6105, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           44-6105.   A domestic mutual insurer may convert to a  
7 stock insurer by meeting the requirements of the Insurers  
8 Demutualization Act. The mutual insurer shall file an application  
9 to convert to a stock insurer with the director. The application  
10 shall be accompanied by a nonrefundable application fee of one  
11 thousand dollars. The application shall include the following at a  
12 minimum:

13           (1) A plan of conversion containing a description of the  
14 structure and form of the proposed consideration to the  
15 policyholders, the projected range of the number of shares of  
16 capital stock to be issued by the new stock insurer or the holding  
17 company of such insurer, whether to policyholders, to be sold or  
18 reserved for sale to investors by the new stock insurer or the  
19 holding company of such insurer, or to a trust established for the  
20 exclusive benefit of policyholders for the purpose of effecting the  
21 conversion into which shares of the capital stock of the new stock  
22 insurer or the holding company of such insurer are placed pending  
23 distribution to the policyholders, and such other proposed  
24 conditions and provisions as determined by the mutual insurer not  
25 to be inconsistent with the act;

26           (2) A certification that the plan of conversion has been  
27 duly adopted by a vote of not less than two-thirds of the members  
28 of the board of directors of the mutual insurer;

1           (3) A certification adopted by not less than two-thirds  
2 of the members of the board of directors of the mutual insurer that  
3 the plan of conversion is fair and equitable to the policyholders;

4           (4) Certified copies of the proposed amendments to the  
5 articles of incorporation and bylaws to effectuate the conversion;

6           (5) A form of the proposed notice to be mailed by the  
7 mutual insurer to its policyholders as required in section 44-6109;  
8 and

9           (6) Any other additional information as the director may  
10 reasonably request.

11           Sec. 7. Section 44-6106, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           44-6106. The plan of conversion required by section  
14 44-6105 shall specify the consideration to the policyholders  
15 entitled thereto, which consideration may be in cash, stock, a  
16 combination thereof, or such other valuable consideration as the  
17 director may approve. The plan of conversion may, subject to the  
18 approval of the director, provide that all or any portion of the  
19 consideration distributable to policyholders may be held in a  
20 trust, the terms of which are subject to the approval of the  
21 director, established by the mutual insurer for a period not  
22 greater than three years, which period may be extended beyond three  
23 years for additional annual periods not to exceed five years in the  
24 aggregate, with the approval of the director, pursuant to, and  
25 subject to limitations set forth in the plan of conversion. Unless  
26 otherwise ordered by the director and notwithstanding any  
27 provisions of law to the contrary, policyholders are not required  
28 to be given preemptive rights.

1           Sec. 8.     Section 44-6108, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           44-6108. (1) The director shall issue an order making an  
4 initial determination to approve or disapprove the application  
5 within thirty days after the close of the public hearing as  
6 required by section 44-6107.

7           (2)(a) The director shall not approve the application  
8 unless he or she finds that:

9           (i) The plan of conversion is fair and equitable to the  
10 policyholders;

11          (ii) The plan of conversion does not deprive the  
12 policyholders of their property rights or due process of law; and

13          (iii) The new stock insurer would meet the minimum  
14 requirements to be issued a certificate of authority by the  
15 director to transact business in this state and the continued  
16 operations of the new stock insurer would not be hazardous to  
17 future policyholders and the public.

18          (b) For purposes of this subsection, the director may  
19 consider any relevant factor, including, but not limited to:

20          (i) The capital requirements of the new stock insurer;

21          (ii) Whether a portion of the statutory surplus has been  
22 contributed by persons or entities whose policies or contracts are  
23 not in force on the date the plan of conversion is initially  
24 approved by the board of directors of the mutual insurer and, in  
25 such event, the consideration to policyholders may be less than the  
26 statutory surplus;

27          (iii) Whether the plan of conversion includes preemptive  
28 rights for policyholders to purchase securities offered in the

1 initial sale of securities by the new stock insurer; ~~and~~

2 (iv) Whether the plan of conversion includes  
3 establishment of a preference account from which the payment of any  
4 shareholder dividends, including a regular, special, or liquidation  
5 dividend, would be prohibited for a reasonable period of time as  
6 the director may require;

7 (v) The suitability of the trustees of any trust created  
8 pursuant to the provisions of section 44-6106; and

9 (vi) Whether the utilization of a trust, if included in  
10 the plan of conversion, has a material adverse effect on  
11 policyholders, other than delaying receipt of shares of capital  
12 stock.

13 (3) If the director makes a determination to disapprove  
14 the application, the director shall issue a final order setting  
15 forth specific findings for the disapproval.

16 Sec. 9. Section 44-6116, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 44-6116. Nothing in the Insurers Demutualization Act  
19 shall prohibit the inclusion in the plan of conversion of  
20 provisions under which individuals comprising the new stock  
21 insurer's board of directors, officers, employees, agents, and  
22 persons acting as trustees of employee stock ownership plans or  
23 other employee benefit plans may be entitled to purchase for cash  
24 capital stock of the new stock insurer at the same price initially  
25 issued by the new stock insurer under the plan of conversion but no  
26 such purchase may be made while any shares of capital stock are  
27 held in a trust established pursuant to the plan of conversion.

28 Sec. 10. Section 60-304, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           60-304.   (1)(a) Undercover license plates may be issued  
3 to state, county, city, or village law enforcement agencies and  
4 shall be used only for legitimate criminal investigatory purposes.  
5 Undercover license plates may also be issued to the Nebraska State  
6 Patrol, the Game and Parks Commission, deputy state sheriffs  
7 employed by the Nebraska Brand Committee and State Fire Marshal for  
8 state law enforcement purposes, persons employed by the Tax  
9 Commissioner for state revenue enforcement purposes, the Department  
10 of Health and Human Services for the purposes of communicable  
11 disease control or for the prevention and control of those  
12 communicable diseases which endanger the public health, the  
13 Department of Health and Human Services Regulation and Licensure in  
14 the enforcement of drug control laws or for other investigation  
15 purposes, ~~and~~ the Department of Agriculture for special  
16 investigative purposes, and the Insurance Fraud Prevention Division  
17 of the Department of Insurance for investigative purposes.  
18 Undercover license plates shall not be used on personal vehicles or  
19 for personal use of government vehicles.

20           (b) The Director of Motor Vehicles shall prescribe a form  
21 for agencies to apply for undercover license plates. The form  
22 shall include a space for the name and signature of the contact  
23 person for the requesting agency, a statement that the undercover  
24 license plates are to be used only for legitimate criminal  
25 investigatory purposes, and a statement that undercover license  
26 plates are not to be used on personal vehicles or for personal use  
27 of government vehicles.

28           (2) The agency shall include the name and signature of

1 the contact person for the agency on the form and pay the fee  
2 prescribed in section 60-311. If the undercover license plates  
3 will be used for the investigation of a specific event rather than  
4 for ongoing investigations, the agency shall designate on the form  
5 an estimate of the length of time the undercover license plates  
6 will be needed. The contact person in the agency shall sign the  
7 form and verify the information contained in the form.

8 (3) Upon receipt of a completed form, the director shall  
9 determine whether the undercover license plates will be used by an  
10 approved agency for a legitimate purpose pursuant to subsection (1)  
11 of this section. If the director determines that the undercover  
12 license plates will be used for such a purpose, he or she may issue  
13 the undercover license plates in the form and under the conditions  
14 he or she determines to be necessary. The decision of the director  
15 regarding issuance of undercover license plates is final.

16 (4) The Department of Motor Vehicles shall keep records  
17 pertaining to undercover license plates confidential, and such  
18 records shall not be subject to public disclosure. Any person who  
19 receives information pertaining to undercover license plates in the  
20 course of his or her employment and who discloses any such  
21 information to any unauthorized individual shall be guilty of a  
22 Class III misdemeanor.

23 (5) The contact person shall return the undercover  
24 license plates to the Department of Motor Vehicles if:

25 (a) The undercover license plates expire and are not  
26 renewed;

27 (b) The purpose for which the undercover license plates  
28 were issued has been completed or terminated; or

1 (c) The director requests their return.

2 (6) A state agency, board, or commission that uses motor  
3 vehicles from the transportation services bureau of the Department  
4 of Administrative Services shall notify the bureau immediately  
5 after undercover license plates have been assigned to the motor  
6 vehicle and shall provide the equipment and license number and the  
7 undercover license plates' numbers to the bureau. The  
8 transportation services bureau shall maintain a list of state-owned  
9 motor vehicles which have been assigned undercover license plates.  
10 The list shall be confidential and not be subject to public  
11 disclosure. Any person who receives information pertaining to  
12 undercover license plates in the course of his or her employment  
13 and who discloses any such information to any unauthorized  
14 individual shall be guilty of a Class III misdemeanor.

15 (7) The contact person shall be held accountable to keep  
16 proper records of the number of undercover plates possessed by the  
17 agency, the particular license plate numbers for each vehicle, and  
18 the person who is assigned to the vehicle. This record shall be  
19 confidential and not be subject to public disclosure.

20 Sec. 11. Section 81-1021, Revised Statutes Supplement,  
21 1998, is amended to read:

22 81-1021. (1) All motor vehicles acquired by the State of  
23 Nebraska shall be indelibly and conspicuously lettered, in plain  
24 letters of a contrasting color or reflective material:

25 (a) On each side thereof with the words State of Nebraska  
26 and following such words the name of whatever board, department,  
27 bureau, division, institution, including the University of Nebraska  
28 or state college, office, or other state expending agency of the



1 state to which the motor vehicle belongs; and

2 (b) On the back thereof with the words State of Nebraska.

3 (2) This section shall not apply to motor vehicles used  
4 or controlled by:

5 (a) The Nebraska State Patrol, the Public Service  
6 Commission, the Game and Parks Commission, deputy state sheriffs  
7 employed by the Nebraska Brand Committee and State Fire Marshal for  
8 state law enforcement purposes, inspectors employed by the Nebraska  
9 Liquor Control Commission, and persons employed by the Tax  
10 Commissioner for state revenue enforcement purposes, the exemption  
11 for state law enforcement purposes and state revenue enforcement  
12 purposes being confined strictly to the seven agencies specifically  
13 named;

14 (b) The Department of Health and Human Services or the  
15 Department of Correctional Services for the purpose of apprehending  
16 and returning escaped offenders or parole violators to facilities  
17 in the Department of Correctional Services and transporting  
18 offenders and personnel of the Department of Correctional Services  
19 and patients and personnel of the Department of Public Institutions  
20 until January 1, 1997, and on and after January 1, 1997, the  
21 Department of Health and Human Services who are engaged in  
22 off-campus program activities;

23 (c) The Military Department;

24 (d) Vocational rehabilitation counselors and the  
25 Department of Health and Human Services for the purposes of  
26 communicable disease control, for the prevention and control of  
27 those communicable diseases which endanger the public health, or  
28 used by the Department of Health and Human Services Regulation and

1 Licensure in the enforcement of drug control laws or for other  
2 investigation purposes;

3 (e) The Department of Agriculture for special  
4 investigative purposes; ~~and~~

5 (f) The Nebraska Motor Vehicle Industry Licensing Board  
6 for investigative purposes; and

7 (g) The Insurance Fraud Division of the Department of  
8 Insurance for investigative purposes.

9 Sec. 12. The Revisor of Statutes shall assign section 5  
10 of this act to Chapter 44, article 7.

11 Sec. 13. Original sections 44-322, 44-516, 44-522,  
12 44-523, 44-6105, 44-6106, 44-6108, 44-6116, and 60-304, Reissue  
13 Revised Statutes of Nebraska, and section 81-1021, Revised Statutes  
14 Supplement, 1998, are repealed.